

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- ECF Case
SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, : No. 13 Civ. 2082 (HB)

-against- :
MICHAEL STEINBERG, :
Defendant, :
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**GOVERNMENT'S REPLY MEMORANDUM OF LAW IN SUPPORT OF ITS
APPLICATION TO INTERVENE AND FOR A LIMITED STAY OF DISCOVERY**

PREET BHARARA
United States Attorney for the
Southern District of New York
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ANTONIA M. APPS
Assistant United States Attorney
- *Of Counsel* -

The Government writes respectfully in brief reply to the defendant's answer to our motion for a limited stay of discovery.

The defense contends in its papers, as it amplified before Your Honor this afternoon, that a stay in discovery, in the face of its recent agreement to a discovery cut-off which would permit roughly six weeks for depositions following the criminal trial, would "render adherence to this schedule extremely difficult if not impossible." (Def. Mem. at 9). And yet, when the defense agreed to this schedule in the civil action, it was on full notice that the Government intended to move for a stay of discovery, the prosecution having notified Mr. Berke on June 19, 2013 of its intention to intervene and seek a limited stay.

In these circumstances, given the well-settled precedent staying civil discovery in light of a related criminal prosecution, it is difficult to imagine that the defense agreed to a discovery cut-off on the assumption that this Court would *not* stay discovery. It is far more likely the case that the defense agreed to a cut-off that would accommodate its discovery plans regardless of how Your Honor ruled on the instant application for a stay. To contend otherwise is, to paraphrase the argument made by the defendant today, to seek relief from a problem of the defense's own making. Indeed, six weeks is perfectly adequate time to conduct the necessary depositions in the civil action, as the defendant must have believed when he agreed to the February discovery cut-off.

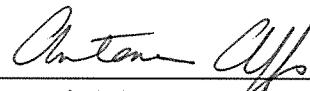
CONCLUSION

In light of the foregoing, and for the reasons set forth in the Government's Memorandum of Law in Support of its Application to Intervene and for a Limited Stay of Discovery (filed June 26, 2013), the Government respectfully requests that its application be granted.

Dated: New York, New York
June 27, 2013

Respectfully submitted,

PREET BHARARA
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Southern District of New York

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